

## ATTACHMENT C

**BILL:** AB 2690

**AUTHOR:** ASSEMBLY MEMBER SEBASTIAN RIDLEY-THOMAS  
(D-LOS ANGELES)

**SUBJECT:** SMALL AND DISABLED VETERAN BUSINESS ENTERPRISE  
PARTICIPATION IN LACMTA CONTRACTING

**STATUS:** PENDING COMMITTEE REFERRAL

**ACTION:** SUPPORT (SPONSOR)

### **RECOMMENDATION**

Staff recommends that the Board adopt a SUPPORT position on the Metro sponsored bill, AB 2690 (Ridley-Thomas).

### **ISSUE**

Assembly Member Sebastian Ridley-Thomas has introduced AB 2690, a Metro sponsored bill that would require bidders on contracts financed with nonfederal funds to comply with small business enterprise and veteran business enterprise goals as established by Metro.

AB 2690 would:

- Require bidders to include subcontracting opportunities for small business enterprise (SBEs) and disabled veteran business enterprises (DVBEs) as a component of the procurement process.
- The bill will eliminate Good Faith Efforts and instead authorize Metro to award contracts to the lowest responsible bidder meeting the specified SBE and DVBE participation goals.
- The bill will also authorize Metro to award contracts under certain circumstances to small business enterprises with respect to work that is set aside for competition among certified SBEs.

These provisions would only apply to procurement actions that are financed through nonfederal funds.

### **DISCUSSION**

Existing law gives Metro specified powers and duties to award contracts for the purchase of supplies, equipment, or materials with the purchase price exceeding \$100,000 to be let to the lowest responsible bidder, or best value proposer and contracts for construction exceeding \$25,000 to be let to the lowest responsible bidder.

Currently, there is no legislation that permits Metro to utilize goals or preferences for DVBEs on its contracts. Further, there is no legislation that allows Metro to set aside contracts for competition among certified SBEs.

Metro issues approximately \$2 to \$5 billion in contracts annually. While the current Small Business Enterprise (SBE) preference program has aided Metro in increasing SBE participation, staff finds that requiring bidders/proposers to meet a specific SBE subcontracting goal on contracts would substantially increase SBE participation rates. Contractors opt-in voluntarily to the current SBE preference program.

As for Disadvantaged Veteran Business Enterprise (DBVE) participation, both the federal government and the State of California have enacted legislation that provides for participation by DVBEs on federal and State contracts.

In 2011, similar legislation was codified to establish an SBE program that could apply to Metro competitively bid, non-federally funded contracts. This legislation authorized Metro to grant a preference (discount) of a bidder/proposer cost/price as follows: (1) 5% preference to bidder/proposer that is an eligible MTA SBE certified firm and; (2) 5% preference to a bidder/proposer that meets or exceeds an established SBE subcontracting goal. It also provided a provision for bidders/proposers to demonstrate good faith efforts in situations where bidders/proposers did not meet the SBE subcontracting goal.

Small business set-asides allow for small businesses to bid as primes, fostering opportunities to grow and build capacity. This bill will allow Metro to utilize a range of tools to further promote and facilitate increased participation of SBEs (as well as DVBEs) in public contracting with Metro.

As a component of Metro's 2016 State Legislative Program, the Board directed staff to sponsor legislation to enhance the ability of small businesses to participate in Metro's procurements. Staff is recommending that the Board of Directors adopt a SUPPORT position on this measure.

### **DETERMINATION OF SAFETY IMPACT**

Staff has determined that there is no direct impact to safety as a result of this proposal.

### **FINANCIAL IMPACT**

Staff has determined that there is not an immediate fiscal impact to the agency as the result of the provisions outlined in this bill.

## **ALTERNATIVES CONSIDERED**

Metro could consider adopting an oppose or neutral position on this legislation; however, this would be inconsistent with our agency's effort to increase participation in the Small Business program and Board-approved 2016 State Legislative program.

## **NEXT STEPS**

Should the Board decide to adopt a SUPPORT position on AB 2690, staff will communicate the Board's position to the appropriate committees and to pursue successful passage of the legislation. Staff will continue to keep the Board informed as this issue is addressed throughout the legislative session.